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Toyota Motor Sales, U.S.A., Inc.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

ELLIOT NAZOS, CHRISTINE
BLIGHT, JEFFREY COCHRAN,
JACK PERRY, BRIAN AND
BARBARA SAUNDERS, PATRICIA
LOUGHNEY, EMILY BARBOUR,
THOMAS PASTORE, TIMOTHY
AND DAWN DOTSON, JILL
SILVERNALE and KYLE BLUMIN,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

TOYOTA MOTOR SALES, U.S.A.,
INC.,

Defendant.

Case No. 2:22-cv-02214-PA(Ex)

**STIPULATED AND [PROPOSED]
PROTECTIVE ORDER
CONCERNING CONFIDENTIAL
TREATMENT OF DISCOVERY
MATERIALS**

Assigned to: Hon. Percy Anderson

1 Plaintiffs and Defendant Toyota Motor Sales, U.S.A, Inc. (“Toyota”)
 2 (collectively, “Parties”), by and through their respective counsel, and pursuant to Rule
 3 26(c) of the Federal Rules of Civil Procedure, hereby stipulate and agree to the terms
 4 of this Stipulated Protective Order Regarding Confidential Treatment of Discovery
 5 Materials (hereinafter “Stipulated Protective Order”) as follows:

6 IT IS HEREBY STIPULATED, subject to the approval of the Court that:

7 1. In connection with discovery proceedings in this Action, the Parties may
 8 designate any document, thing, material, discovery responses, depositions, deposition
 9 exhibits, testimony or other information derived therefrom, including notes, lists,
 10 memoranda, indices, compilations, or other materials prepared or based on an
 11 examination of such information or materials (hereinafter “Discovery Materials”), as
 12 “Confidential” or “Highly Confidential” under the terms of this Protective Order
 13 (hereinafter “Order”) if the Producing Party in good faith reasonably believes that such
 14 Discovery Materials contain non-public, confidential, personal, proprietary, or
 15 commercially sensitive information that requires protections provided in this Order.
 16 Confidential Material and Highly Confidential Material are collectively defined as
 17 “Covered Information.”

18 a) For purposes of this Order, information considered to be “Confidential
 19 Material” includes any information that a Party believes in good faith to
 20 be confidential or sensitive non-public information, including but not
 21 limited to, research, design, development, financial, technical, marketing
 22 or planning, personal, or commercial information, as such terms are used
 23 in Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure and any
 24 applicable case law interpreting Rule 26(c)(1)(G), as well the following
 25 categories of sensitive personal information of individuals:

26 i. Social Security Number, name, address, telephone number,
 27 personal email address, drivers’ license number, date of birth,
 28

1 Vehicle Identification Number (VIN), financial account numbers,
2 credit card numbers, bank routing numbers, license plate number,
3 police report numbers, insurance claim numbers, and/or towing
4 claim numbers.

5 b) For purposes of this Order, “Highly Confidential Material” shall include,
6 but is not limited to Confidential Material as defined herein, which also
7 includes non-public product design and testing information or extremely
8 sensitive, highly confidential, non-public information, consisting either of
9 trade secrets or proprietary or other highly confidential business,
10 financial, regulatory, or strategic information (including information
11 regarding business plans, technical data, and non-public designs), the
12 disclosure of which would create a substantial risk of competitive or
13 business injury to the Producing Party. Certain information may compel
14 alternative or additional protections beyond those afforded Highly
15 Confidential Material, in which event the Parties shall meet and confer in
16 good faith, and, if unsuccessful, shall move the Court for appropriate
17 relief.

18 2. Covered Information shall be so designated by stamping copies of the
19 document produced to a Party with the legend “CONFIDENTIAL” or “HIGHLY
20 CONFIDENTIAL.” Stamping the legend “CONFIDENTIAL” or “HIGHLY
21 CONFIDENTIAL” on the cover of any multipage documents shall designate all pages
22 of the document as confidential, unless otherwise indicated by the Producing Party.
23 With respect to documents or materials containing Covered Information produced in
24 Native Format, the Producing Party shall include the highest level of confidentiality
25 designation in the filename and the accompanying production slip sheet.

26 3. Testimony taken at a deposition may be designated as Confidential
27 Material by making a statement to that effect on the record at the deposition or by
28 serving such designations within 30 days after receipt of the transcript of the deposition

1 in which the designations are made. All deposition transcripts shall be treated as Highly
2 Confidential for 30 days following receipt of the transcript. Arrangements shall be
3 made with the court reporter taking and transcribing such deposition to separately bind
4 such portions of the transcript containing information designated as Confidential
5 Material or Highly Confidential Material, and to label such portions appropriately.

6 4. Discovery Materials designated as Confidential Material under this Order,
7 the information contained therein, and any summaries, copies, abstracts, or other
8 documents derived in whole or in part from such Confidential Material shall be used
9 only for the purpose of the prosecution, defense, or settlement of this Action, and for
10 no other purpose.

11 5. All references to “Party,” “Receiving Party,” or “Producing Party” as used
12 throughout this Order are intended to include non-parties. Any Party issuing a
13 subpoena to a non-party shall enclose a copy of this Protective Order with a request
14 that, within 14 days, the non-party either request the protection of this Protective Order
15 or notify the issuing Party that the non-party does not need the protection of this
16 Protective Order or wishes to seek different protection.

17 6. Confidential Material produced pursuant to this Order may be disclosed
18 or made available only to the Court, to counsel for a Party (including the clerks,
19 employees, paralegals, assistants, secretaries, staff and stenographic, computer, audio-
20 visual and clerical employees and agents thereof when operating under the supervision
21 of such counsel), and to the “qualified persons” designated below:

- 22 a) a Party, or an officer, director, or employee of a Party deemed necessary
23 by counsel to aid in the prosecution, defense, or settlement of this Action;
24 b) individual experts, consultants, or expert consulting firm (together with
25 their clerical staff) retained by counsel of record in this Action to assist in
26 the prosecution, defense, or settlement of this Action to the extent
27 necessary for the individual expert, consultant, or expert consulting firm
28

1 to prepare a written opinion, to prepare to testify, or to assist counsel of
 2 record in the prosecution or defense of this Action, provided, however,
 3 that: (i) the disclosure shall be made only to an individual expert, or to
 4 members, partners, employees, or agents of an expert consulting firm as
 5 the expert consulting firm shall designate as the persons who will
 6 undertake the engagement on behalf of the expert consulting firm (the
 7 “Designated Expert Personnel”); (ii) the individual expert or Designated
 8 Expert Personnel use the information solely in connection with this
 9 Action; (iii) the individual and/or a representative of each expert
 10 consulting firm sign the written assurance attached as Attachment A on
 11 behalf of any Designated Expert Personnel associated with that firm; and
 12 (iv) absent notice and consent of Toyota, the individual expert and each
 13 of the Designated Expert Personnel is not a current or former (within the
 14 past three years from the date of this Order) employee of any party or any
 15 entity which directly competes with, or is a direct seller to, the Defendant;¹

16 c) court reporter(s), stenographers, outside copying services, or companies
 17 engaged in the business of supporting computerized or electronic
 18 litigation discovery or trial preparation, retained by a Party or its counsel
 19 employed in this Action;

20 d) a witness at any deposition or other proceeding in this Action;

21 e) any person (i) who created, authored, received, or reviewed such
 22 Confidential Material; (ii) is or was a custodian of the Confidential
 23 Material; (iii) is identified on such Confidential Material; or (iv) is or was
 24 an employee of the Producing Party and is reasonably believed to have
 25 knowledge of the matters in the Confidential Material; and

26
 27 ¹ Retention in this Action shall not qualify a potential expert as an employee of a party
 28 or any entity which directly competes with, or is a direct seller to, the Defendant.

1 f) any other person as to whom the Parties in writing agree.
 2 Prior to receiving any Confidential Material, each “qualified person”—except those
 3 listed in Paragraph 6(e) above—shall be provided with a copy of this Order and shall
 4 execute a nondisclosure agreement in the form of Attachment A, a copy of which shall
 5 be retained by counsel for the Party sharing Confidential Material. In the event a
 6 witness under Paragraph 6(d) refuses to sign Attachment A, he or she may be shown
 7 Confidential Material at a deposition or other proceeding only after, on the record of
 8 the deposition: stating such refusal, being advised that the following Order applies to
 9 him or her, and being read the following: “By order of the Court in this Action, you
 10 may not disclose in any manner any Confidential Material to any person or entity
 11 except in strict compliance with the provisions of this Order, and if you do so, you may
 12 be subject to sanctions and punishment by the Court.” Counsel for the Party sharing
 13 Confidential Material shall also retain a list of Confidential Material shared with any
 14 “qualified person” listed under Paragraphs 6(a), (b), (d), and (f).

15 7. Except as specifically provided for in this or subsequent Court orders,
 16 Highly Confidential Material or their contents may be disclosed, summarized,
 17 described, or otherwise communicated or made available in whole or in part, only to
 18 the Court, to counsel for a Party (including the clerks, employees, paralegals, assistants,
 19 secretaries, staff and stenographic, computer, audio-visual and clerical employees and
 20 agents thereof when operating under the supervision of such counsel), and to the
 21 persons identified and conditions set forth in Paragraphs 6(b), (c), (e), and (f), and:

22 a) A Plaintiff, but only if the Highly Confidential Material is included in a
 23 Court filing, hearing, or deposition (or if Plaintiffs’ Counsel otherwise
 24 seek permission to disclose the material to the Plaintiffs), and if the
 25 Producing Party has not objected to the disclosure within 7 days of the
 26 Court filing, hearing, deposition, or request to disclose. Plaintiffs’
 27 Counsel shall have the right to seek Court intervention to resolve
 28 objections as to this provision. This provision has no effect on a Party’s

1 obligation to file Covered Information under seal, as set forth in Paragraph
2 14 below.

3 b) Members of the in-house legal departments for the Parties or their parents
4 or affiliates, including their paralegals, investigative, technical,
5 secretarial, and clerical personnel who are engaged in assisting them in
6 this Litigation; or

7 c) Any person who (1) (a) created, authored, received, or reviewed such
8 Highly Confidential Material, (b) is or was a custodian of the Highly
9 Confidential Material, or (c) is identified on such Highly Confidential
10 Material; and (2) has signed Attachment A as described in Paragraph 6.

11 8. Only qualified persons may attend depositions at which Confidential
12 Material is used or discussed.

13 9. A Party objecting to the designation of any material as Confidential or
14 Highly Confidential shall do so in good faith, and shall give written notice to the
15 Designating Party, identifying the documents subject to the objection by Bates number
16 and the basis for the objection to each such document. Upon receipt of the written
17 objection, counsel for the Designating Party shall, within 14 days, provide a written
18 response to the objecting Party explaining the basis for the designation. The Parties
19 shall meet and confer in good faith to attempt to resolve the dispute without resort to
20 Court intervention. If the objecting Party and the Designating Party cannot resolve their
21 dispute through such meet and confer discussions, within 21 days after the Parties have
22 reached an impasse after meet and confer efforts, the Designating Party shall file and
23 serve a motion to retain confidentiality pursuant to the Local Rules. The Designating
24 Party has the burden of establishing that the document is entitled to protection. Any
25 material so designated shall remain Confidential or Highly Confidential, and shall be
26 subject to all of the restrictions on its disclosure and use set forth in this Order until
27 such time as the Court may determine otherwise. In the event the Court rules that the
28 challenged material is not Confidential or Highly Confidential, the Designating Party

1 shall reproduce copies of all materials so designated without Confidential or Highly
2 Confidential label within 14 days.

3 10. If at any time prior to the trial of this Action a Party realizes that
4 previously produced Discovery Material should be designated as “Confidential” or
5 “Highly Confidential,” the Party may so designate by advising all other Parties in
6 writing and by producing replacement documents or material with the appropriate
7 “Confidential” or “Highly Confidential” designation as described above. The
8 designated documents or material will thereafter be treated as “Confidential” or
9 “Highly Confidential” pursuant to this Order. Upon receipt of such designation in
10 writing and re-production of the material with the “Confidential” or “Highly
11 Confidential” stamp, the Parties and other persons subject to this Order shall take
12 reasonable and appropriate steps to notify any and all recipients of the Discovery
13 Material about the protected status of the newly designated “Confidential” or “Highly
14 Confidential” Materials, and to retrieve the newly designated “Confidential” or
15 “Highly Confidential” Materials from any person who is not permitted by this Order
16 to have the Covered Information.

17 11. No Party receiving Covered Information shall be under any obligation to
18 object to the designation of any document at the time such designation is made or at
19 any time thereafter. No Party shall, by failure to object, be found to have acquiesced or
20 agreed to such designation or be barred from objecting to such designation at any time.

21 12. The failure to designate Discovery Material does not constitute a waiver
22 of such claim and may be remedied by prompt supplemental written notice upon
23 discovery of the disclosure, with the effect that such Discovery Material will be subject
24 to the protections of this Order. The Receiving Party shall exercise good faith efforts
25 to ensure that copies made of Covered Information produced to it, and copies made by
26 others who obtained such Covered Information directly or indirectly from the
27 Receiving Party, include the appropriate confidentiality legend, to the same extent that
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1 the Covered Information has been marked with the appropriate confidentiality legend
2 by the Producing Party.

3 13. Nothing herein shall impose any restrictions on the use or disclosure by a
4 party of material obtained by such party independent of discovery in this Action,
5 whether or not such material is also obtained through discovery in this Action, or from
6 disclosing its own Covered Information as it deems appropriate.

7 14. If Covered Information, including any portion of a deposition transcript
8 designated as Confidential or Highly Confidential, is included in any papers to be filed
9 with the Court, such papers shall be accompanied by an application to (a) file the
10 confidential portions thereof under seal (if such portions are segregable), or (b) file the
11 papers in their entirety under seal (if the confidential portions are not segregable). The
12 application shall be directed to the judge to whom the papers are directed. Pending the
13 ruling on the application, the papers or portions thereof subject to the sealing
14 application shall be lodged under seal.

15 15. If any Party has obtained Covered Information under the terms of this
16 Order and receives a request to produce such Covered Information by subpoena or
17 other compulsory process commanding the production of such Covered Information,
18 such Party shall promptly notify the Designating Party, including in such notice the
19 date set for the production of such subpoenaed information. Such notification shall
20 include a copy of the subpoena or other order. The Party on which the subpoena or
21 other order was served shall promptly notify in writing the party/person/entity who
22 caused the subpoena or other order to issue that some or all of the material covered by
23 the subpoena or other order is subject to this Order, and shall cooperate with respect to
24 all reasonable procedures sought or pursued by the Producing Party whose Confidential
25 or Highly Confidential Materials may be affected.

26 16. This Order shall be without prejudice to the right of the Parties (i) to bring
27 before the Court at any time the question of whether any particular document or
28

1 information is confidential or whether its use should be restricted or (ii) to present a
2 motion to the Court under Fed. R. Civ. P. 26(c) for a separate protective order as to any
3 particular document or information, including restrictions differing from those as
4 specified herein.

5 17. This Order is entered solely for the purpose of facilitating the exchange
6 of documents and information between the Parties to this Action without involving the
7 Court unnecessarily in the process. Nothing in this Order nor the production of any
8 information or document under the terms of this Order nor any proceedings pursuant
9 to this Order shall be deemed to have the effect of an admission or waiver by either
10 Party or of altering the confidentiality or nonconfidentiality of any such document or
11 information or altering any existing obligation of any party or the absence thereof.

12 18. Any person in possession of another Party's Covered Information shall
13 exercise the same care with regard to the storage, custody, or use of Covered
14 Information as they would apply to their own material of the same or comparable
15 sensitivity. Receiving Parties must take reasonable precautions to protect Covered
16 Information from loss, misuse and unauthorized access, disclosure, alteration, and
17 destruction, including but not limited to:

- 18 a) Covered Information in electronic format shall be maintained in a secure
19 litigation support site(s) that applies standard industry practices regarding
20 data security, including but not limited to application of access control
21 rights to those persons entitled to access Covered Information under this
22 Order;
- 23 b) An audit trail of use and access to litigation support site(s) shall be
24 maintained while this Litigation, including any appeals, is pending,
25 provided it can be generated in the ordinary course of business;
- 26 c) Any Covered Information downloaded from the litigation support site(s)
27 in electronic format shall be stored only on device(s) (e.g., laptop, tablet,
28 smartphone, thumb drive, portable hard drive) that are password protected

1 and/or encrypted with access limited to persons entitled to access Covered
2 Information under this Order. If the user is unable to password protect
3 and/or encrypt the device, then the Covered Information shall be password
4 protected and/or encrypted at the file level;

5 d) The Receiving Party should take reasonable steps to maintain Covered
6 Information in paper format in a private location with access limited to
7 persons entitled to access Covered Information under this Order; and

8 e) Summaries of Covered Information, including any lists, memorandum,
9 indices, or compilations prepared or based on an examination of Covered
10 Information, that quote from or paraphrase Covered Information in a
11 manner that enables it to be identified shall be accorded the same status
12 of confidentiality as the underlying Covered Information;

13 f) If the recipient of Covered Information is shipping data in electronic
14 format, the recipient shall encrypt the data prior to shipping and provide
15 the encryption key in separate correspondence. If hard copy documents
16 are shipped, the Receiving Party will ship the documents using secure
17 packaging tape via Federal Express or UPS and retain a tracking number
18 for the materials. If the Receiving Party learns at any time that the Covered
19 Information has been retrieved or viewed by unauthorized parties during
20 shipment, it will immediately notify the Producing Party and take all
21 reasonable measures to retrieve the improperly disclosed materials;

22 g) If the Receiving Party discovers a breach of security² relating to the
23 Covered Information of a Producing Party, the Receiving Party shall: (1)
24 provide written notice to the Producing Party of the breach within 48

25 ² Breach is defined to include, but is not limited to, the confirmed or suspected: (i)
26 disclosure or use of Covered Information by or to an unauthorized person or by an
27 authorized person in an unauthorized manner; and/or (ii) the loss, theft, or hacking of
28 a device containing Covered Information.

1 hours of the Receiving Party's discovery of the breach; (2) investigate and
2 remediate the effects of the breach, and take reasonable and appropriate
3 steps to make sure the breach shall not recur; and (3) provide sufficient
4 information about the breach that the Producing Party can ascertain the
5 size and scope of the breach as it concerns the Covered Information
6 produced in this litigation. The Receiving Party agrees to cooperate with
7 the Producing Party or law enforcement in investigating any such security
8 incident. Nothing in this provision requires a Receiving Party to breach
9 attorney-client privilege or waive attorney work-product or any other
10 applicable privilege or protection.

11 19. This Order shall survive the final termination of this Action, to the extent
12 that the information contained in Confidential or Highly Confidential Material is not
13 or does not become known to the public, and the Court shall retain jurisdiction to
14 resolve any dispute concerning the use of information disclosed hereunder. Upon
15 termination of this Action, counsel for the Parties shall assemble and return to each
16 other all documents, material, and deposition transcripts designated as Confidential or
17 Highly Confidential Material and all copies of same, or shall certify the destruction
18 thereof. Notwithstanding this provision, Counsel may retain all pleadings, motion
19 papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence,
20 deposition and trial exhibits, expert reports, and other documents filed with the Court
21 that refer to or incorporate Covered Information, provided that any such archival copies
22 that contain or constitute Covered Information remain subject to this Protective Order.
23 Further, attorney work-product materials that contain Covered Information need not be
24 destroyed, but, if they are not destroyed, the person in possession of the attorney work-
25 product will continue to be bound by this Order with respect to all such retained
26 information.

27 20. Nothing in this Order shall be construed to prohibit the Parties from
28 agreeing to modify any provision of this Order or seeking relief from the Court. Nor

1 shall anything in this Order or any Party's compliance herewith be construed as a
2 waiver of any Party's rights under applicable law.

3
4 **STIPULATED AND AGREED TO on May 15, 2023.**

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6 By: /s/ Lesley E. Weaver

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28 *Attorneys for Defendant*
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ATTESTATION

Pursuant to Local Rule 5-4.3.4(a)(2)(i), the e-filing counsel attests that all other signatories listed, and on whose behalf this filing is jointly submitted, concur in the filing's content, and have authorized the filing.

Dated: May 15, 2023

/s/ Lesley E. Weaver
Lesley E. Weaver

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IT IS SO ORDERED.

DATED: _____

Honorable Percy Anderson
UNITED STATES DISTRICT JUDGE

Attachment A**Nondisclosure Agreement**

I, _____, do solemnly swear that I am fully familiar with the terms of the Stipulated and [Proposed] Protective Order Concerning Confidential Treatment of Discovery Materials entered in *Elliot Nazos, et al. v. Toyota Motor Sales, U.S.A., Inc.*, United States District Court for the Central District of California, Civil Action No. CV 2:22-cv-02214-PA(Ex), and hereby agree to comply with and be bound by the terms and conditions of said Order unless and until modified by further Order of the Court. I hereby consent to the jurisdiction of the Court for purposes of enforcing this nondisclosure agreement.

DATED: _____

[Name of Signator Typed]